

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

NATHAN CHAVEZ,	)	
	)	
Plaintiff,	)	Civil Action No. 07-505
	)	
v.	)	Magistrate Judge Caiazza
	)	
POLICE OFFICERS MICHAEL	)	
MARKUN and ERIC YERDON,	)	
	)	
Defendants.	)	

**THIRD CASE MANAGEMENT ORDER**

**A. Pretrial Statements**

By agreement of counsel, the parties shall cross-file their pretrial statements by **June 30, 2008**. The statements shall comply with all requirements of Local Rule 16.1.4(A), and shall specify the material facts, including damages, to be proved at trial. Proof of material facts not identified may be excluded at trial upon objection or by the Court *sua sponte*.

Any exhibit not identified in the pretrial statements, except those to be used solely for impeachment purposes, will not be admitted as evidence absent leave of Court for good cause shown.

Any depositions or portions thereof to be read into evidence shall be identified in the offering party's pretrial statement by page and line numbers. Objections to the admissibility of any portion thereof shall be set forth in a motion *in limine*, consistent with the deadline established below.

The anticipated absence of any witness is insufficient grounds for delaying trial. Video-tape deposition services are available through the Clerk of Court or the local bar association.

**B. Motions in Limine**

Motions *in limine* shall be filed on or before **September 17, 2008**. Motions *in limine* include, but are not necessarily limited to, requests for the preclusion of evidence at trial, unusual legal issues that may arise, and any other evidentiary matters.

Responses to any motions *in limine* are due by **October 1, 2008**.

**C. Voir Dire**

As a general framework, the Court will refer to the *voir dire* procedures stated in Local Rule 47.1. The parties shall file suggested statements under Rule 47.1(A)(1)-(2), and may propose additional inquiries under Rule 47.1(C)(11).

The parties' suggested statements and proposals shall be filed on or before **September 17, 2008**, and any objections are due by **October 1, 2008**.

**D. Proposed Jury Instructions**

To the extent applicable, the Court will follow the Court of Appeals for the Third Circuit's Model Civil Jury Instructions, available at the web page:

[http://www.ca3.uscourts.gov/civiljuryinstructions/toc\\_and\\_instructions.htm](http://www.ca3.uscourts.gov/civiljuryinstructions/toc_and_instructions.htm)

Counsels' attention is directed to Chapters 1, 2 & 3 thereof, which contain "General Instructions for Civil Cases," as well as Chapter 4 regarding "Civil Rights Claims Under Section 1983." See *id.*; see also Chapter 4.9 (use of excessive force claims).

The parties shall meet, confer, and draft a joint statement of proposed charges. The parties must supply the legal authority for any proposed instruction that does not appear in, or that deviates from, the Court of Appeals for the Third Circuit's Model Civil Jury Instructions. The joint statement shall begin with a recitation of the proposed instructions upon which agreement has been reached, followed by the individual parties' contested proposed charges. The joint statement shall be filed by **September 17, 2008**, and any objections regarding disputed charges are due by **October 1, 2008 and shall state the specific legal authority upon which the objection is based.**

**E. Final Pretrial Conference**

The final pretrial conference is scheduled for October 15, 2008 at 9:30 a.m. The parties shall be prepared to discuss any anticipated disputes regarding proposed exhibits (which shall be marked before trial), witnesses or any other evidentiary issues.

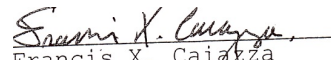
**F. Trial**

The jury trial shall commence on October 27, 2008 at 9:30 a.m. After the discussion of any remaining, timely-raised issues, the Court will proceed to empanel the jury.

Consistent with Fed. R. Civ. P. 48, the Court will empanel seven (7) jurors, and no alternates. *See id.* (requiring unanimous verdict of six or more jurors).

THESE THINGS ARE SO ORDERED.

June 3, 2008

  
Francis X. Caiazza  
U.S. Magistrate Judge

cc (via email):

Matthew S. Marquette, Esq.  
Frank C. Walker, Esq.  
Paul D. Krepps, Esq.